

**MARKET CONDUCT EXAMINATION REPORT**  
**OF**  
**PACIFIC LIFE INSURANCE COMPANY**  
**700 NEWPORT CENTER DRIVE**  
**NEWPORT BEACH, CALIFORNIA 92660**

**January 1, 1992 through December 31, 1996**



**BY**  
**THE OFFICE OF THE INSURANCE COMMISSIONER**  
**STATE OF WASHINGTON**

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Honorable Mike Kreidler  
Washington Insurance Commissioner  
Insurance Building  
PO Box 40255  
Olympia, Washington 98504-0255

Dear Commissioner Kreidler:

Pursuant to your instructions and in compliance with the statutory requirements of RCW 48.03.010 and procedures promulgated by the National Association of Insurance Commissioners and the Office of the Insurance Commissioner (OIC), an examination of the market conduct affairs has been performed of:

PACIFIC LIFE INSURANCE COMPANY, NAIC#67466

700 Newport Center Drive

Newport Beach, California 92660-6397

hereafter referred to as "the Company" or "PACIFIC LIFE " or "PL". This report is respectfully submitted for your review and action.

This was a target examination of the company's activities between January 1, 1992 December 31, 1996.

This report of examination is respectfully submitted.

## **CHIEF EXAMINER'S REPORT CERTIFICATION and ACKNOWLEDGEMENTS**

This examination was conducted in accordance with Office of the Insurance Commissioner and National Association of Insurance Commissioners market conduct examination procedures. Jeanne Mayer, George Lazur, AIE, and Nancy Barnes, AIE, of the Washington State Office of the Insurance Commissioner performed this examination and participated in the preparation of this report.

The examiners wish to express appreciation for the courtesy and cooperation extended by the personnel of Pacific Life Insurance Company during the course of this market conduct examination.

I certify that the following is the report of the examination, that I have reviewed this report in conjunction with pertinent examination work papers, that this report meets the provisions for such reports prescribed by the Office of the Insurance Commissioner, and that this report is true and correct to the best of my knowledge and belief.

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Leslie A. Krier, AIE, FLMI  
Chief Market Conduct Examiner  
Office of the Insurance Commissioner  
State of Washington

## **FOREWORD**

This target market conduct examination report is by exception and additional practices, procedures, and files subject to review during the examination were omitted from the report if no improprieties were indicated. Throughout the report, where cited, RCW refers to the Revised Code of Washington, and WAC refers to Washington Administrative Code.

## **SCOPE**

### **TIME FRAME**

The examination covered the company's operations from the period January 1, 1992 through December 31, 1996.

### **METHODOLOGY**

#### **Sampling Standards**

In general, the sample for each test utilized in this examination falls within the following guidelines:

<b>92 %</b>	<b>Confidence Level</b>
<b>+/- 5 %</b>	<b>Mathematical Tolerance</b>

#### **Regulatory Standards**

Samples are tested for compliance with standards established by the OIC. The tests applied to sampled data will result in an error ratio, which determines whether or not a standard is met. If the error ratio found in the sample is, generally, less than 5%, the standard will be considered as "met." The standard in the area of agent licensing and appointment will not be met if any violation is identified. This will also apply when all records are examined, in lieu of a sample.

For those standards, which look for the existence of written procedures, or a process to be in place, the standard will be met based on the examiner's analysis of those procedures or processes. The analysis will include a determination of whether or not the company follows established procedures

### **MATTERS EXAMINED**

The focus of the examination was the life insurance and annuity business, which encompassed the following areas of operations:

- Agent licensing
- Replacement activity

**HISTORY,  
TERRITORY OF OPERATIONS,  
MANAGEMENT,  
BOARD OF DIRECTORS**

Pacific Life Insurance Company (PLIC) was admitted to the State of Washington on July 22, 1936.

PLIC was originally incorporated as The Pacific Mutual Life Insurance Company of California in January 1868. In 1997, the current name was adopted.

During 1997, Pacific Life changed its structure following the recent passage of California mutual holding company legislation. Pacific Life formed a California domiciled mutual holding company named Pacific Mutual Holding Company and Pacific Mutual Life converted to a California domiciled stock life insurance company and continues its corporate existence under the name Pacific Life Insurance Company.

Pacific Life is licensed for life and disability insurance in Washington and has authority to sell Life, Disability, Variable Life, and Variable Annuities. As of December 31, 1996, the total premium volume in Washington was \$ 26,878,487, and the Company had 1,305 active agents in the State of Washington.

A Board of Directors governs the Company and the current Board members for Pacific Life are:

David R. Carmichael

Audrey L. Milfs

Glenn S. Schafer

Thomas C. Sutton

Khanh T. Tran

The Company's administrative records are located at Pacific Life's Home Office in Newport Beach, California. Policy record files are stored on imaging systems and retained indefinitely.

**IN FORCE POLICY REVIEW**

In order to determine compliance with Washington Replacement Regulations (WAC 284-23-400 through WAC 284-23-485) a review of inforce policy records was done as part of the examination. This section of the examination had two primary objectives:

1. Review records to determine the extent of replacement activity, both internal and external, associated with policies issued during the examination period.

2. Review records to determine the extent of existing policies financing new policies issued during the examination period. This financing could be accomplished through policy loans on existing policies, surrender of existing policies, exercising other non-forfeiture options on existing policies or partial surrenders of existing policies.

During the review of the records provided by the Company, some policies may appear more than one time in a given category. This occurs when there are multiple existing policies matched to a policy issued during the exam period. Therefore, the numbers may be slightly inflated. This occurrence is not significant. We therefore used the total number of policies identified in each category as our population in determining confidence levels and standard deviations for random sample selection.

To accomplish this review, the examiner requested that the Company provide a database of files broken down into the following categories:

- Policies issued in the State of Washington during the examination period.
- Policies issued during the exam period where there was an existing policy at the start of the examination period.
- Policies issued during the exam period where the existing policies have loans against them.
- Policies issued during the examination period that had an existing policy surrendered during the exam period.
- Policies issued during the exam period where the dividends from an existing policy were used to pay premiums on the new policy.
- Policies issued during the exam period paid up additions were surrendered on the new policy.
- Policies issued during the exam period where a Non-Forfeiture Option (NFO) was exercised on the existing policy.

During the examination period, 3,111 policies were issued in Washington. One hundred (100) policy files were selected at random for review. The review of policy records did not indicate a pattern of old policies being used to fund new policies. The remaining specific findings of this review are incorporated into the sections of this report entitled Replacement Activity and Agent Appointments and Licensing.

## REPLACEMENT ACTIVITY

The Office of the Insurance Commissioner is charged with the responsibility and enforcement of WAC 284-23-400 through WAC 284-23-485. The purpose of this regulation is:

- (1) To regulate the activities of insurers and agents and brokers with respect to the replacement of existing life insurance and annuities;
- (2) To protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement transactions by:
  - (a) Assuring that the purchaser receives information with which a decision can be made in his or her own best interest;
  - (b) Reducing the opportunity for misrepresentation and incomplete disclosures; and
  - (c) Establishing penalties for failure to comply with the requirements of this regulation.

The Company has documented replacement procedures that were reviewed for accuracy, adherence to the Company's guidelines, and compliance with Washington statutes and rules. The Company has written replacement procedures that are consistent with Washington replacement regulations. Copies of replacement forms in use during the examination period were also provided. The forms are all correct and as prescribed by Washington replacement regulations.

A review of 123 randomly selected files from the Company-provided database of policies issued during the exam period was conducted. Replacement was involved in 41 of the 123 files. The examiner's findings were:

- In one (1) file no Replacement Form was forwarded with the application as required by WAC 284-23-455(2)(a)(ii). *See Appendix (1)*
- In twelve (12) files the replacement letter to the other company was not sent within three (3) business days of receipt of the application and replacement form, as required by WAC 284-23-455(2)(b). *See Appendix (1)*
- One (1) file did not have a date receipt stamp on the application, making it unclear whether or not the replacement letter to the other company was sent within three (3) business days of receipt of the application and replacement form, as required by WAC 284-23-455(2)(b). *See Appendix (1)*
- In one (1) file no date was shown on the replacement letter to the existing carrier, making it unclear whether or not this notice was sent within three (3) business days of receipt of the application and replacement form, as required by WAC 284-23-455(2)(b). *See Appendix (1)*
- In one (1) file the replacement letter to the other company was not sent within three (3) business days of receipt of the application and replacement form, as required by WAC 284-23-455(2)(b), and the replacement letter to the other company did not include a policy summary, contract summary, or ledger statement as required by WAC 284-23-455(2)(b). *See Appendix (1)*
- In one (1) file the replacement letter to the other company did not include a policy summary, contract summary, or ledger statement as required by WAC 284-23-455(2)(b). *See Appendix (1)*



- Nine (9) replacement files from the in-force sample were not listed on the Company Replacement Log as required by WAC 284-23-455(3). *See Appendix (1)*

**STANDARD (1):**

The Company processes replacements in accordance with Washington replacement regulations, WAC 284-23-400 through WAC 284-23-485. (Specific violations are noted in Appendix 1.)

Code	Total Population	Sample Size	# of Violations	Percentage in Violation
WAC 284-23-455(2)(a)(ii)	3,111	41	1	2.44%
WAC 284-23-455(2)(b) – External Replacements only	3,111	24	16	66.67%
WAC 284-23-455(3)	3,111	41	9	21.95%

**RESULTS:**

**The Company did not meet this standard.**

*Subsequent Events: The responsibility of processing replacement business was transferred from the Company's Risk Selection (Underwriting) Department to the Client Services Department in 1996. The Company states that, because of this transfer, their new business practices comply more precisely with pertinent Washington replacement regulations. Additional training was provided to Client Services personnel in May 2001 reemphasizing Washington replacement requirements.*

*In 1998, the Company's Life Insurance Division implemented an automated replacement tracking system. This system replaces the former log system that was maintained manually.*

*The Company's Life Insurance Division will be transitioning to a document center/workflow methodology for incoming mail during 2001. This new process will result in the scanning of all incoming new business applications into an imaging system on the same day it is received. The scan date and time will be systematically linked to the scanned document.*

*In May 2001, training was provided to Client Services personnel reemphasizing the requirement that the notice of replacement to the existing insurer needs to be sent in a timely manner in order to satisfy compliance with WAC 284-23-455(2)(b).*

**Monitoring Replacement Activity**

**NOTE: No legal limit exists as to the number of replacements an agent may write. However, replacements should be monitored by the company to guard against excessive**

**replacement or churning. The threshold of “greater than 1 per month” is used in this section of the examination solely for the purpose of testing company oversight procedures.**

The Company Replacement Log was reviewed to see how many agents were involved with replacement activity. There were 117 agents listed on the Replacement Log (8.97% of the agents). Thirteen agents wrote more than one (1) replacement policy per month on 30 occasions. There were three (3) agents who wrote more than 12 replacements in a calendar year:

- One agent wrote 41 replacement policies between September, 1992 and February, 1993. These all replaced policies with Great West Life. In 1992, there were 37 replacements, and there were four (4) in February, 1993. *See Appendix (2)*
- One agent wrote 20 replacements, 12 of which were done in 1992 and eight (8) in 1993. *See Appendix (2)*
- One agent wrote 18 replacements, 17 in 1993 and two (2) in April, 1995. *See Appendix (2)*

The Corporate Audit Department performs audits that include the sales practices of employees and producers and reports to the Audit Committee of the Board of Directors. An audit of the Seattle Branch Office was completed in 1996. The Company had no disciplinary actions against any agents in Washington during the Examination period. Nothing in the Company provided material describes a program to monitor replacement activity by agents.

## **AGENT APPOINTMENTS AND LICENSING**

Pacific Life has documented licensing and appointment procedures that were reviewed for accuracy, adherence to Company guidelines, and compliance with Washington statutes and rules. However, it appears that the Company did not consistently adhere to these written procedures.

**In February 1995, the Company implemented system enhancements to verify agent licensing. All life insurance business that is entered into Pacific Life’s system is validated against the data in the Company’s agent database. If an agent does not have a current license and/or appointment in place, the business will be rejected and an email communication is sent to the Contracts and Licensing Department in the form of an Invalid Agent Inquiry. The contract analyst reviews the agent file, checks the state regulation regarding licensing and appointment, and accepts or rejects the business accordingly. Business submitted by agent who are not properly licensed and appointed is returned.**

The Company had 1,305 licensed and appointed agents during the Examination Period. During the review of the 123 policy files, 100 from the inforce policies and 23 from the Replacement Log, agent and agency license and appointment dates were reviewed. These were compared against application signature dates to determine if the agent was licensed and properly appointed prior to soliciting business. This review yielded eight (8) exceptions:

- Four (4) agents / agencies were not licensed in Washington at the time applications for four (4) policies were completed. *See Appendix (3)*

- Four (4) agents / agencies were not appointed with the Company at the time of solicitation of four (4) policies. *See Appendix (3)*

**STANDARD (2):**

Agents representing the Company have been licensed and appointed prior to soliciting applications on behalf of the Company according to RCW 48.17.010 and RCW 48.17.060(1). The standard is not met if there are any violations of either requirement. (Specific violations are noted in Appendix 3.)

Population	Sample Size	Number of Exceptions	Percentage to Sample
1,305	123	4 (License)	3.25%
1,305	123	4 (Appointment)	3.25%

**RESULTS:**

**The Company does not meet this standard.**

*Subsequent Events: The Company states that Washington licensing and appointment requirements were communicated to the field in September of 1999.*

*In July 2000, the Contracts and Licensing Department implemented a workflow and imaging system. All appointment documents are made a part of the imaging file minimizing the risk of lost documents. Each contract analyst has access to this information, and the information is easily reviewed and retrievable.*

## **INSTRUCTIONS**

1. The company is instructed to send to each existing insurer a timely written communication advising of the replacement or proposed replacement. This written communication shall be in accordance with WAC 284-23-455(2)(b) and shall be retained in the policy files. (Page 9 and page 13)
2. The Company is instructed to maintain all files on its replacement log to assure compliance with WAC 284-23-455(3). (Page 9 and page 14)
3. The Company is instructed to comply with RCW 48.17.160(1), and ensure that all agents and brokers are properly licensed and appointed in the state prior to soliciting on behalf of the Company. (Page 11 and page 16)

## **RECOMMENDATIONS**

1. It is recommended that all applications received be clearly date stamped.
2. It is recommended that Company personnel receive additional training regarding required timeframes for notification to replaced insurers.

## APPENDIX 1

### INCOMPLETE REPLACEMENT REQUIREMENTS

#### VIOLATION OF WAC-284-23-455(2)(a)(ii)

(Company to require replacement notice with application)

OIC ID #	POLICY NUMBER	APPLICATION DATE	COMMENTS
IF23	VP60387190	09-12-96	California Form Completed

#### VIOLATION OF WAC-284-23-455(2)(b)

(Company to send notification to existing carrier within 3 business days)

OIC ID #	POLICY NUMBER	DATE APPLICATION RECEIVED	COMMENTS
IF8	VP60380080	07-30-96	12 days / No Policy Summary
IF14	VP60051650	08-06-92	4 days
IF15	1A22746980	11-08-93	4 days
IF24	1A22879020	10-17-94	4 days
IF55	1A22590760	09-23-92	6 days
IF56	1A22638370	01-27-93	5 days
IF90	1A22919640	02-08-95	5 days
RPL1	VP60097020	09-07-93	5 days
RPL2	1A22740400	10-15-93	6 days
RPL4	1A22845060	Unknown	No Date Stamp on App
RPL7	1A22700200	06-21-93	4 days
RPL8	1A22947450	04-21-95	6 days
RPL12	1A22687000	06-03-93	No Date on letter to existing company
RPL14	1A22904700	12-14-94	No Policy Summary
RPL16	VP60140260	03-02-94	12 days
RPL23	1A22859490	08-26-94	5 days

**VIOLATION OF WAC 284-23-455(3)**  
**(Company to include all replacements on Replacement Log)**

<b>OIC ID NUMBER</b>	<b>POLICY NUMBER</b>
IF3	1A22998810
IF23	VP60387190
IF24	1A22879020
IF31	1A22645890
IF44	1A23133680
IF54	1A22582210
IF70	0022723630
IF93	1A22985030
IF100	1A22638740

## APPENDIX 2

### AGENTS WITH EXCESSIVE REPLACEMENTS

AGENT	TOTAL NUMBER OF REPLACEMENTS	NUMBER PER YEAR / MONTH
George J. Feiss III	41	$1992 = 37 / 02-93 = 4$
Ron W. Colwill	20	$1992 = 12 / 1993 = 8$
Donald Mason	19	$1993 = 17 / 4-95 = 2$

### APPENDIX 3

#### AGENTS NOT LICENSED IN WASHINGTON

#### VIOLATION OF RCW 48.17.010 and RCW 48.17.160(1)

OIC ID #	POLICY NUMBER	APPLICATION DATE	AGENT	LICENSE DATA
IF1	1A22834060	06-24-94	Bruce Alexander	License Expired 12-14-90
IF18	1A22565990	06-25-92	David Duncan	Appointed 07-23-92
IF64	1A22637700	12-16-92	Donald Mason / Corporate Concepts	Appointed 01-14-93 / 02-08-93
IF71	1A22824990	03-11-94	Mark Powers / National Associates of Spokane	Appointed 04-07-94
IF87	1A22747460	11-08-93	James Tedeschi / Tedeschi & Associates	License Expired 03-11-92 / 01-02-92
IF88	1A22530640	03-02-92	Tedeschi & Associates	License Expired 01-02-92
IF89	1A22723270	08-24-93	James Tedeschi / Tedeschi & Associates	License Expired 03-11-92 / 01-02-92
RPL6	1A22686130	06-09-93	Allan Pratt	Appointed 09-10-93